REMARKS

Claims 1, 5, 6, 18, and 21 have been amended to clarify the subject matter regarded as the invention. Claims 1-6, 18, and 21 are pending.

It is believed the amendments to claims 1, 5, 6, and 21 overcome the rejection under 35 U.S.C. §112.

The Examiner has rejected claims 5-6 under 35 U.S.C. §101 as being directed to non-statutory subject matter.

The rejection is respectfully traversed. Claims 5 and 6 recite methods of multicasting information to a set of clients. Examples of such clients may be found, without limitation, at page 18 and Figure 3B of the specification. Methods of multicasting information to such clients, as disclosed and claimed herein, provide useful, concrete and tangible results. For example, a client can receive information that is multicast and display the information to a user. Claims 5 and 6 provides limitations of multicasting information to a set of clients, and such limitations enables useful, concrete, tangible results. Finally, the rejection of claims 5 and 6 appears to have been based on the "technological arts" test subsequently rejected in Ex Parte Lundgren. As such, claims 5 and 6 are believed to fulfill the requirements of 35 U.S.C. §101.

The Examiner has rejected claims 1-6, 18 and 21 under 35 U.S.C. §102(e) as being anticipated by Kumar.

The rejection is respectfully traversed. With respect to claims 1, 5, 6 and 21, Kumar describes techniques for selecting an "active receiver" to provide feedback to a server and help the server determine what data segments to resend. Kumar does not teach constructing a data topology associated with the set of clients based on the performance parameter associated with each of the clients. Kumar likewise does not disclose determining, based on received performance information associated with a new client, whether the new client should be a primary (forwarding) client. While Kumar briefly mentions at the very end of the specification using some clients to forward to others, col. 20, lines 41-50, Kumar does not describe how the forwarding clients are selected. In the embodiments described by Kumar more fully and cited in

the Office Action, client forwarding is not used and all clients instead receive data from the server. See, e.g., Kumar at col. 12, lines 25-32. Therefore, Kumar does not teach using client-associated performance data to select one or more "primary" (forwarding) clients from among existing clients and/or a newly added client, as recited in claims 1, 5, 6 and 21. As such, claims 1, 5, 6 and 21 are believed to be allowable. Similarly, with respect to claim 18, Kumar does not teach a server comprising logic configured to construct a data topology associated with the set of clients based on the performance parameter associated with each of the clients. As such, claim 18 is also believed to be allowable.

Claims 2-4 depend from claim 1 and are believed to be allowable for the same reasons described above.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,

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